

The Honorable John C. Coughenour

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

SHOALWATER BAY INDIAN TRIBE,

Plaintiff,

v.

EXXON MOBIL CORPORATION,  
EXXONMOBIL OIL CORPORATION, BP  
P.L.C., BP AMERICA INC., CHEVRON  
CORPORATION, CHEVRON USA, INC.,  
SHELL PLC, SHELL OIL COMPANY,  
CONOCOPHILLIPS, CONOCOPHILLIPS  
COMPANY, PHILLIPS 66, and PHILLIPS 66  
COMPANY,

Defendants.

Case No. 2:24-cv-00158 JCC

**STIPULATED MOTION AND  
[PROPOSED] ORDER REGARDING  
BRIEFING SCHEDULE**

Noted for February 9, 2024

## RECITALS

Plaintiff, the Shoalwater Bay Indian Tribe (“Plaintiff”), and Defendants BP America Inc., Chevron Corporation, Chevron U.S.A. Inc., Exxon Mobil Corp., ExxonMobil Oil Corporation, Shell Oil Company, ConocoPhillips, ConocoPhillips Company, Phillips 66, and Phillips 66 Company, (collectively, “Defendants”) (Plaintiff and Defendants are collectively referred to herein as “the Parties”), hereby stipulate and agree to the following schedule for briefing of Plaintiff’s anticipated motion to remand, and Defendants’ anticipated motions to dismiss.

**WHEREAS**, on December 20, 2023, Plaintiff filed a complaint against 12 Defendants<sup>1</sup> in the Superior Court of the State of Washington in and for the County of King, No. 23-2-25215-2-SEA;

**WHEREAS**, on February 6, 2024, Defendants Chevron Corporation and Chevron U.S.A. Inc., with the consent of all properly named and served Defendants, timely removed this action from the Superior Court to this Court;

**WHEREAS**, Plaintiff intends to file a Motion to Remand, which Defendants intend to oppose;

**WHEREAS**, Defendants also intend to file threshold motions, including, but not limited to, Motions to Dismiss pursuant to Fed. R. Civ. P. 12(b)(6), and certain Defendants object to the exercise of personal jurisdiction, and intend to file Motions to Dismiss pursuant to Fed. R. Civ. P. 12(b)(2), 12(b)(4), and/or 12(b)(5) (collectively “Motions to Dismiss”);

**WHEREAS**, the Parties agree it would be more efficient for the Parties and the Court for Defendants to file Motions to Dismiss or other responses to the Complaint after Plaintiff files a Motion to Remand and the Court enters an Order finally resolving any such motion;

---

<sup>1</sup> In addition to the Defendants signing this stipulation, the complaint also names foreign entities BP p.l.c. and Shell p.l.c., which Plaintiff represents were served with the summons and complaint on February 9, 2024, as defendants. Plaintiff agrees that BP p.l.c.’s and Shell p.l.c.’s deadlines shall be no earlier than the deadlines applicable to Defendants set forth herein.

**WHEREAS**, the Parties recognize that the Court may not be able to enter an order reflecting the below stipulated briefing schedule before Defendants' current deadline to respond to the Complaint, and the Parties therefore agree to abide by the terms of this Stipulated Motion irrespective of whether the Court is able to act before that time;

**WHEREAS**, this Stipulated Motion does not operate as an admission of any factual allegation or legal conclusion and is submitted subject to and without waiver of any right, defense, affirmative defense, claim, or objection, including lack of subject matter jurisdiction, or lack of personal jurisdiction, insufficient process, or insufficient service of process;

**NOW THEREFORE**, the Parties hereby agree and stipulate, and respectfully move the Court to enter an order, as follows:

2. No Defendant is required to file an Answer or Motion to Dismiss or otherwise respond to the Complaint before the Court's order on Plaintiff's Motion to Remand.

1           3.       If the Court denies Plaintiff's Motion to Remand, the Defendants will file any Motions  
2 to Dismiss within 60 days of an Order denying the Motion to Remand. The Parties will also promptly  
3 meet and confer regarding an appropriate briefing schedule and plan for Oppositions and Replies and  
4 page limits for Motions to Dismiss briefing and will endeavor to jointly submit a proposal to the Court  
5 within 10 days of the Court's order denying Plaintiff's Motion to Remand. If the Parties are not able  
6 to agree on a proposed briefing schedule, they will submit separate proposals to the Court.  
7

8           4.       In the event the Court denies Defendants' Motions to Dismiss, in whole or in part, De-  
9 fendants' answers shall be due within 60 days of the Court's denial of the last of the Motions.

10          5.       If the Court grants Plaintiff's Motion to Remand, the Parties agree to abide by the same  
11 schedule in state court: Defendants will file any Motions to Dismiss within 60 days of the action being  
12 remanded to state court, and the Parties will promptly meet and confer and endeavor to propose a  
13 briefing schedule and plan for those motions within 10 days of the remand order taking effect.  
14

15          6.       Defendants reserve the right to seek an extension of time to respond to the Complaint  
16 and the Parties reserve the right to request that the Court stay proceedings.

17          7.       The deadline to serve Rule 26(a) Initial Disclosures and the issuance of a Rule 16(b)  
18 Scheduling Order shall be stayed until after the Court has ruled on the Motion to Remand.

19          8.       Defendants do not, by agreeing to the procedures herein to have the Court consider and  
20 adjudicate the Motion to Remand prior to any further proceedings, waive their objections to personal  
21 jurisdiction, insufficient process, or insufficient service of process. Plaintiff agrees that it will not assert  
22 in federal or state court that there has been any waiver of personal jurisdiction because of the Parties'  
23 agreement to have the Court consider and adjudicate the Motion to Remand prior to the filing of Mo-  
24 tions to Dismiss.  
25  
26  
27  
28

9. The deadlines of foreign defendants BP p.l.c. and Shell p.l.c. to file an Answer or Motion to Dismiss or otherwise respond to the Complaint shall be no earlier than the deadlines applicable to Defendants set forth herein.

Counsel certifies that this memorandum contains 979 words, in compliance with the Local Civil Rules.

Dated February 9, 2024.

SHER EDLING LLP

ORRICK, HERRINGTON & SUTCLIFFE LLP

By: /s/ Corrie J. Yackulic

By: /s/Robert M. McKenna

Corrie J. Yackulic, WSBA No. 16063  
Victor M. Sher (*pro hac vice forthcoming*)  
Matthew K. Edling (*pro hac vice forthcoming*)  
Katie Jones (*pro hac vice forthcoming*)  
100 Montgomery St., Ste. 1410  
San Francisco, CA 94104  
Tel: (628) 231-2500  
Fax: (628) 231-2929  
Email: corrie@sheredling.com  
vic@sheredling.com  
matt@sheredling.com  
katie@sheredling.com

Robert M. McKenna (WSBA No. 18327)  
rmckenna@orrick.com  
Mark S. Parris (WSBA No. 13870)  
mparris@orrick.com  
Andrew Cook (WSBA No. 34004)  
andrew.cook@orrick.com  
401 Union Street, Suite 3100  
Seattle, WA 98101  
Telephone: 206.839.4300  
Facsimile: 206.839.4301

DRUMMOND WOODSUM & MACMAHON

GIBSON, DUNN & CRUTCHER LLP

Kaighn Smith Jr. (*pro hac vice forthcoming*)  
84 Marginal Way, Suite 600  
Portland, ME 04101  
Tel: (207) 253-0559  
Email: ksmith@dwmlaw.com

Theodore J. Boutrous, Jr. (*pro hac vice forthcoming*)  
tboutrous@gibsondunn.com  
Andrea E. Neuman (*pro hac vice forthcoming*)  
aneuman@gibsondunn.com  
William E. Thomson (*pro hac vice forthcoming*)  
wthomson@gibsondunn.com  
Joshua D. Dick (*pro hac vice forthcoming*)  
jdick@gibsondunn.com  
333 South Grand Avenue  
Los Angeles, CA 90071  
Telephone: 213.229.7000  
Facsimile: 213.229.7520

*Attorneys for Plaintiff Shoalwater Bay Indian Tribe*

*Attorneys for Defendants Chevron Corporation and Chevron U.S.A. Inc.*

BYRNES KELLER CROMWELL LLP

STOEL RIVES LLP

By: s/ Bradley S. Keller  
Bradley S. Keller, WSBA #10665

By: s/ Vanessa Soriano Power  
Vanessa Soriano Power, WSBA No. 30777  
vanessa.power@stoel.com  
Rachel H. Cox, WSBA No. 45020  
rachel.cox@stoel.com  
STOEL RIVES LLP  
600 University Street, Suite 3600  
Seattle, WA 98101  
Telephone: (206) 624-0900

By: s/ Joshua B. Selig  
Joshua B. Selig, WSBA #39628  
1000 Second Avenue, 38<sup>th</sup> Floor  
Seattle, WA 98104  
Tel: (206) 622-2000  
Fax: (206) 622-2522  
Email: bkeller@byrneskeller.com  
jselig@byrneskeller.com

ARNOLD & PORTER KAYE SCHOLER LLP

PAUL, WEISS, RIFKIND, WHARTON &  
GARRISON LLP

Nancy G. Milburn (*pro hac vice* forthcoming)  
Diana E. Reiter (*pro hac vice* forthcoming)  
250 West 55th Street  
New York, NY 10019-9710  
Tel.: (212) 836-8383  
Fax: (212) 715-1399  
Email: nancy.milburn@arnoldporter.com  
Email: diana.reiter@arnoldporter.com

Theodore V. Wells, Jr. (*pro hac vice*  
*forthcoming*)  
Daniel J. Toal (*pro hac vice* forthcom-  
*ing*)  
Yahonnes Cleary (*pro hac vice* forth-  
*coming*)  
Caitlin E. Grusauskas (*pro hac vice*  
*forthcoming*)  
1285 Avenue of the Americas  
New York, NY 10019-6064  
Tel.: (212) 373-3000  
Fax: (212) 757-3990  
Email: twells@paulweiss.com  
Email: dtoal@paulweiss.com  
Email: ycleary@paulweiss.com  
Email: cgrusauskas@paulweiss.com

John D. Lombardo (*pro hac vice* forthcoming)  
777 South Figueroa Street, 44th Floor  
Los Angeles, CA 90017-5844  
Tel.: (213) 243-4000  
Fax: (213) 243-4199  
Email: john.lombardo@arnoldporter.com

Jonathan W. Hughes (*pro hac vice* forthcoming)  
Three Embarcadero Center, 10th Floor  
San Francisco, CA 94111-4024  
Tel.: (415) 471-3100  
Fax: (415) 471-3400  
Email: jonathan.hughes@arnoldporter.com

*Attorneys for Defendant BP America Inc.*

*Attorneys for Defendants EXXON MOBIL  
CORPORATION and EXXONMOBIL OIL  
CORPORATION*

GIBSON, DUNN & CRUTCHER LLP  
333 SOUTH GRAND AVENUE,  
LOS ANGELES, CA 90071-3197  
213.229.7000

CORR CRONIN LLP

SUMMIT LAW GROUP, PLLC

By: s/ Timothy A. Bradshaw  
 Timothy A. Bradshaw, WSBA No. 17983  
 Jeff Bone, WSBA No. 43965  
 Victoria E. Ainsworth, WSBA No. 49677  
 1015 Second Avenue, Floor 10  
 Seattle, WA 98104-1001  
 (206) 625-8600 Phone  
 (206) 625-0900 Fax  
 tbradshaw@corrchronin.com  
 jbone@corrchronin.com  
 tainsworth@corrchronin.com

By: s/ Alexander A. Baehr  
 Alexander A. Baehr, WSBA No. 25320  
 alexb@summitlaw.com  
s/ Molly J. Gibbons  
 Molly J. Gibbons WSBA #58357  
 mollyg@summitlaw.com

LATHAM & WATKINS LLP

Nicole C. Valco (*pro hac vice forthcoming*)  
 nicole.valco@lw.com  
 Katherine A. Rouse (*pro hac vice forthcoming*)  
 kathrine.rouse@lw.com  
 505 Montgomery St., Suite 2000  
 San Francisco, CA 94111-6538  
 Telephone: (415) 391-0600

WILMER CUTLER PICKERING HALE  
 AND DORR LLP

*Attorneys for Defendants Phillips 66 and Phillips 66 Company*

Hallie B. Levin (*pro hac vice forthcoming*)  
 7 World Trade Center  
 250 Greenwich Street  
 New York, NY 10007  
 Telephone: (212) 295-6710  
 Facsimile: (212) 230-8888  
 Email: hallie.levin@wilmerhale.com

K&L GATES LLP

By: s/ Kari L. Vander Stoep  
 Kari L. Vander Stoep, WSBA # 35923  
 925 Fourth Avenue, Suite 2900  
 Seattle, Washington 98104-1158  
 Tel: +1 206 623 7580  
 Fax: +1 206 623 7022  
 Email: kari.vanderstoep@klgates.com

Matthew T. Martens (*pro hac vice forthcoming*)  
 2100 Pennsylvania Avenue NW  
 Washington, DC 20037  
 Telephone: (202) 663-6921  
 Facsimile: (202) 663-6363  
 Email: matthew.martens@wilmerhale.com

KELLOGG, HANSEN, TODD,  
 FIGEL & FREDERICK, P.L.L.C.

Robert Kingsley Smith (*pro hac vice forthcoming*)  
 60 State Street  
 Boston, MA 02109  
 Telephone: (617) 526-6759  
 Facsimile: (617) 526-5000  
 Email: robert.smith@wilmerhale.com

David C. Frederick (*pro hac vice forthcoming*)  
 James M. Webster, III (*pro hac vice forthcoming*)  
 Daniel S. Severson (*pro hac vice forthcoming*)  
 Daren G. Zhang (*pro hac vice forthcoming*)  
 1615 M Street, N.W., Suite 400  
 Washington, D.C. 20036  
 Telephone: (202) 326-7900  
 Facsimile: (202) 326-7999  
 Email: dfrederick@kelloggghansen.com  
 Email: jwebster@kelloggghansen.com  
 Email: dseverson@kelloggghansen.com  
 Email: dzhang@kelloggghansen.com

*Attorneys for Defendants Conocophillips and Conocophillips Company*

*Attorneys for Shell USA, Inc. (f/k/a Shell Oil Company)*

**[PROPOSED] ORDER**

For the reasons above, and finding good cause, the Court hereby grants the Parties' stipulated motion. It is so ordered.

---

Honorable  
United States District Judge